

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

JAMES H. GORBEY, JR.,  
Administrator of the Estate of  
Marissa Rose Fishman, Deceased,

Plaintiff,

v.

C.A. No. 05-211 KAJ

RICHARD LONGWILL,  
BARBARA LONGWILL,  
AIR BASE CARPET MART, INC.  
d/b/a Air Base Distributing, Inc. d/b/a  
Air Base Carpet Mart, AIR BASE  
DISTRIBUTING, INC., ASHLAND  
CONSTRUCTION COMPANY, INC.,  
JOSEPH RIZZO & SONS  
CONSTRUCTION, VINCENT RIZZO  
CONSTRUCTION CO., INC.,  
d/b/a Ashland Construction Co., Inc.,  
JOSEPH V. RIZZO, VINCENT RIZZO,

Defendants.

JURY TRIAL DEMANDED

**CROSSCLAIMS OF ASHLAND CONSTRUCTION COMPANY, INC.,  
VINCENT RIZZO CONSTRUCTION CO., INC. d/b/a  
ASHLAND CONSTRUCTION CO., INC., JOSEPH RIZZO  
AND VINCENT RIZZO AGAINST BARBARA & RICHARD LONGWILL,  
AIR BASE CARPET MART, INC. AND AIR BASE DISTRIBUTING, INC.**

**CROSSCLAIMS AND/OR COUNTERCLAIMS FOR  
INDEMNIFICATION/CONTRIBUTION**

1. Answering defendants deny that they are liable to the plaintiff in any respect. However, in the event that the answering defendants are held liable to the plaintiff, then answering defendants crossclaim and/or counterclaim against the co-defendants, whose negligence, recklessness and/or intentional conduct was the primary cause of the damages sustained by the plaintiff and claims that the answering defendants, if liable at all, are only secondarily liable. The

answering defendants, therefore, are entitled to indemnification from the co-defendants.

2. In the event that answering defendants are held primarily liable to the plaintiff, then the alleged wrongful acts of the co-defendants are a contributing cause of the damages sustained by the plaintiff and the answering defendants are entitled to contribution in any amount which it may be required to pay to the plaintiff as a result of the co-defendants' wrongful acts, based on the relative degrees of fault determined pursuant to the provisions of the Delaware Uniform Contribution Among Tortfeasors Law, 10 Del. C. § 6301 to § 6308.

**WHEREFORE**, answering defendants move that the plaintiff's cause of action be dismissed against them, or in the alternative, that judgment be entered in answering defendants' favor against the co-defendants, plus interest, costs and any other relief this Court deems appropriate.

MURPHY SPADARO & LANDON

/s/ Roger D. Landon

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JOSEPH RIZZO & SONS  
CONSTRUCTION, VINCENT RIZZO  
CONSTRUCTION CO., INC. d/b/a  
Ashland Construction Co., Inc.,  
JOSEPH V. RIZZO, VINCENT RIZZO,

Defendants.

**CERTIFICATE OF SERVICE**

I, Roger D. Landon, Esq., do hereby certify that on this 25<sup>th</sup> day of April, 2005, two copies of the foregoing **CROSSCLAIMS FOR CONTRIBUTION AND/OR INDEMNIFICATION AGAINST CO-DEFENDANTS** were delivered *via* e-file and in the manner indicated to the following individual(s):

**Via First Class Mail**  
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